

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

FITCHBURG GAS AND ELECTRIC
LIGHT COMPANY

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D.T.E. 02-24/25

**MOTION OF FITCHBURG GAS AND ELECTRIC LIGHT COMPANY
FOR PROTECTIVE TREATMENT**

NOW COMES Fitchburg Gas and Electric Light Company ("FG&E") and respectfully requests that the Department of Telecommunications and Energy ("Department") grant it protection from public disclosure over certain confidential, competitively sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, § 5D. In support of its Motion, FG&E states:

1. On May 17, 2002, FG&E filed revised tariffs and schedules to implement proposed changes to its Electric Division rates and charges.
2. On July 19, 2002, the Attorney General filed his seventh set of information requests for the Electric Division. In particular to this Motion, the Attorney General sought the following:

AG 7-60 (Electric) Please provide copies of the Constellation contract for Standard Offer services and the contract for default services.
4. The Constellation standard offer service contract and FG&E's contract for Default Service has been granted a protective treatment consistently by the Department of

Telecommunications and Energy, pursuant to agreements with Constellation and with FG&E's Default Service provider. See, Fitchburg Gas and Electric Light Co., D.T.E.

5. FG&E requests protection of this information from public disclosure pursuant to Chapter 25, Section 5D of the General Laws of Massachusetts. G.L. c. 25, § 5D is specifically designed to protect against disclosure of competitively sensitive information. That provision, in part, provides:

[T]he [D]epartment may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection. Where such a need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

G.L. c. 25, § 5D.

6. In order to fully respond to this request, FG&E must disclose the actual existence or non-existence of specific information contained in the contracts obtained for services that are bid on a regular basis (default service) or that which will be subject to bidding at the close of the transition period (standard offer service). Both contracts currently in effect are subject to agreements regarding confidentiality and can only be divulged under protective treatment for regulatory matters. Any public disclosure of information which was assured confidentiality by the Company would compromise FG&E's ability to protect the rest of the information regarding the contracts in the future, and thereby compromise the integrity of the competitive procurement

process. In order to ensure receipt of the highest and best offers for standard offer and default service load, FG&E must remain vigilant in its defense of the standards of confidentiality established with its current suppliers.

7. AG-7-60 requires the Company to respond specifically to matters protected under confidentiality agreements. Similarly, current price and non-price negotiated terms contained in those contracts may be used by future entrants into FG&E's competitive solicitation to benchmark their prospective bids, rather developing those bids using market data, potentially limiting the range of bids to the detriment of Massachusetts customers. Because of the impact these disclosures may have on the continuing competitive solicitations and subsequent negotiations for FG&E's standard offer and default service load, FG&E requests confidential treatment over the price and non-price terms contained in the contracts resulting from the latest solicitation(s).

WHEREFORE, for all the reasons set forth in this Motion, Fitchburg Gas and Electric

Light Company respectfully requests that the Department of Telecommunications and Energy issue its Order granting protective treatment over the confidential response to AG-7-60 in the above referenced proceeding.

Respectfully submitted,

**FITCHBURG GAS AND ELECTRIC
LIGHT COMPANY**

By its attorneys,

Patricia M. French
Meabh Purcell
LEBOEUF, LAMB, GREENE & MACRAE, L.L.P.
260 Franklin Street
Boston, MA 02110-3173
(617) 439-9500

Dated: August 7, 2002